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**SEP 23 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Stephen J. Miller :  
Application No. 10/628,031 : DECISION ON PETITION  
Filed: July 24, 2003 :  
Attorney Docket No. T-5550A :

This is a decision on the petition filed August 20, 2004, requesting that the above-identified application be accorded a filing date of July 24, 2003, with pages 6 and 38 of the specification as part of the original disclosure.

On July 24, 2003, applicant filed the above-identified application. On June 22, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of July 24, 2003, and advising applicant that pages 6 and 38 of the specification appeared to have been omitted.

In response, on August 20, 2004, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of, *inter alia*, 41 pages of specification on July 24, 2003. Additionally, applicant submitted pages 6 and 38 of the specification with the present petition.

In the present petition, applicant states that the application was filed with a total of 41 pages of specification. Applicants request that the application, including pages 6 and 38 of the specification, be accorded a filing date of July 24, 2003.

Upon review of the record, pages 6 and 38 of the specification, deposited on July 24, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 24, 2003, included pages 6 and 38 of specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 6 and 38, was complete on filing and will be granted a filing date of July 24, 2003.

Accordingly, the petition is granted.

The Notice of June 22, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination is directed to process the application with a **filing date of July 24, 2003**, using the application papers submitted on that date and pages 6 and 38 of the specification submitted on August 20, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

*Christina Tartera Donnell*

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